



Comptroller of the
State of New York



Treasurer of the
State of California



Treasurer of the
State of North Carolina

FOR IMMEDIATE RELEASE
May 27, 2004

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**CALIFORNIA TREASURER ANGELIDES, NEW YORK STATE
COMPTROLLER HEVESI, NORTH CAROLINA TREASURER MOORE,
JOINED BY OTHER STATE INVESTMENT OFFICERS, PUBLIC PENSION
CHIEFS, LAUNCH RENEWED DRIVE CALLING ON SEC CHAIRMAN
DONALDSON TO GRANT BASIC VOTING RIGHTS TO SHAREHOLDERS**

Citing Massive Lobbying By Corporate Interests and Reported Intervention By Bush Administration Officials, State and Pension Fund Officials Representing \$703 Billion In Assets Say This Is 'Defining Moment' For Donaldson and SEC To Restore Investor Trust and Confidence In Financial Markets

SACRAMENTO, CA – California Treasurer Phil Angelides, New York State Comptroller Alan Hevesi and North Carolina Treasurer Richard Moore, joined by the chief investment officers of nine other states and public pension fund chiefs, today called on the chairman of the U.S. Securities and Exchange Commission (SEC), William Donaldson, to reject the massive lobbying efforts by corporate interests and reported political pressure from high officials of the Bush Administration, and to approve a rule allowing shareholders to directly nominate and elect candidates for corporate boards of directors.

In addition, the group of state chief investment officers and public pension fund chiefs also announced today that they would recruit other institutional investors and investment leaders from across the country to weigh in with the SEC, to counteract the corporate interest lobbying and political pressure.

“The time for continued debate is over; the time for decisive action is now: What is needed at this critical juncture is a rule that will give shareholders a genuine right to nominate directors to the boards of companies they own,” the group wrote to Donaldson in a letter released today.

The others who signed the letters included: Oregon Treasurer Randall Edwards, Iowa Treasurer Michael Fitzgerald, New Jersey Investment Council Chair Orin Kramer, Maine Treasurer Dale McCormick, Kentucky Treasurer Jonathan Miller, Connecticut Treasurer Denise Nappier, Vermont Treasurer Jeb Spaulding, and New York City Comptroller William C. Thompson, Jr., along with Sean Harrigan, President of the Board of Administration of the California Public Employees' Retirement System (CalPERS), the nation's largest public pension funds. Angelides sits on the boards of CalPERS and the California State Teachers' Retirement System (CalSTRS), the nation's third largest public pension fund. In all, these officials represent nearly \$703 billion in pension assets.

Their letter came amid reports of frenzied lobbying by the Business Roundtable, the U.S. Chamber of Commerce and the Bush Administration to block the SEC's adoption of a rule – proposed by Chairman Donaldson in October 2003 – to give shareholders, for the first time, reasonable rights to directly nominate and elect directors to corporate boards. In their letter, the state and pension fund officials urged Donaldson to stand firm against “the opponents of honest, open and transparent markets and shareholder rights” who “have mounted a fierce lobbying campaign to defeat the SEC’s proposal to provide shareholders of corporations with the fundamental right to participate in elections for boards of directors.”

The battle over the SEC's proposed rule on shareholder voting rights has shaped up as a critical test of efforts to reform the nation's financial markets and corporate boardrooms in the wake of a wave of corporate scandal that has rocked the nation's economy and harmed millions of American families. The state and pension fund officials wrote that the SEC's own proposed change in shareholder access to the proxy ballot “only begins to address the basic principle of giving shareholders reasonable voting rights and an opportunity to nominate directors. We would prefer a rule without the sort of unnecessarily restrictive triggering requirements that even the largest investors would have difficulty satisfying, and which would make it difficult to effect change in a timely manner. Consider that under the Commission's current proposal, Enron or WorldCom shareholders would not have been able in the year following the collapse of those companies to remove company directors. We believe that a qualifying shareholder or group should have access to the proxy without waiting two years to bring their nominees to a vote.”

But while the state and pension fund officials said they would prefer a stronger rule, they wrote that “it is essential the Commission now approve a rule at least as strong as the one originally proposed. Approving anything less would be seen, by investors and corporations alike, as a retreat from the principles of openness, honesty and transparency that have driven the corporate governance reform effort in the wake of the recent scandals...”

Shareholders need a legitimate and effective path to nominating directors to the boards of companies they own, the state and pension officials told Donaldson. “As you have put it, ‘Today, nominees and directors emerge from a system that really excludes meaningful input from shareholders.’”

The officials wrote that the corporate scandals of the last few years “have uncovered, among other things, a widespread failure by boards of directors to provide effective oversight of the corporate managers who nominate those directors. The current avenues available to shareholders to nominate directors are long, clogged with obstacles, and prohibitively expensive.” Shareholders have little opportunity to address their concerns about inadequate representation on the boards of the companies in which they invest. The state and pension fund officials reiterated their strong belief that shareholders should have the ability to participate in corporate governance and to hold corporate directors accountable.

Shareholders are increasingly voicing their discontent with boards of directors. In a sampling for the 2003 proxy season of 350 companies included on the S&P 500, the S&P 400 MidCap, and the S&P 600 SmallCap, shareholders opposing company-nominated directors cast “withhold votes” exceeding 20 percent at approximately 82 companies. In addition, shareholders cast “withhold votes” exceeding 35 percent at 11 companies, including: Federated Department Stores (48.66 percent); Starwood Hotels & Resorts (43.51 percent); Health Net, Inc. (40.71 percent); Abercrombie & Fitch Co. (38.88 percent); and Ryder Systems Inc. (37.29 percent).

Many anticipate that 2004 will see an increase in withhold votes over 2003. Recently, for example, more than 45 percent of the Walt Disney Co.'s shareholders withheld their votes for the chairman and CEO because of their dissatisfaction with his performance. Without meaningful shareholder voting rights, "those votes are merely symbolic," the officials wrote.

Today's announcement is the latest in a series of actions led by California Treasurer Angelides, New York State Comptroller Hevesi and North Carolina Treasurer Moore, along with other state investment officers and pension fund chiefs, to restore credibility and investor confidence to the nation's financial markets and to help ensure the integrity of the state pension funds they help oversee.

In 2002, for example, they launched an initiative – Investment Protection Principles that evolved into mandatory Investment Protection Standards – that today set out the toughest in the nation ethical standards for investment banks and broker-dealers doing business with their respective states. "As with the Investment Protection Standards," Angelides said, "we moved first and set new standards for the market. We want to make sure we keep the pressure on."

Just four months ago, in January, the three state chief investment officers – joined by New York State Attorney General Eliot Spitzer – teamed up again to launch a major initiative to protect investors and pensioners through a wide range of mutual fund reforms that the sponsors predicted could become the market standard for the entire mutual fund industry. Since then, CalPERS and CalSTRS have both adopted the Mutual Fund Protection Principles.



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May 27, 2004

Mr. William Donaldson
Chairman
U.S. Securities and Exchange Commission
450 5th Street, N.W.
Washington, DC 20549

Dear Chairman Donaldson:

When you accepted the chairmanship of the U.S. Securities and Exchange Commission, you did so, you recently observed, because "a real opportunity was being presented to make a difference at a crucial time."

You are right; this is a watershed moment. The nation's effort to reverse what you have rightly called "a general erosion of standards of integrity and ethics in the corporate and financial world" is now under heavy counterattack. In particular, the opponents of honest, open and transparent markets and shareholder rights have mounted a fierce lobbying campaign to defeat the SEC's proposal to provide shareholders of corporations with the fundamental right to participate in elections for boards of directors. As trustees of 12 public pension funds, which represent \$703 billion in assets, we are deeply concerned by this massive lobbying effort and what is at stake for all shareholders. We are writing you again to urge you to stand firm and take swift and decisive action at the SEC to grant shareholders the fundamental right to nominate and elect corporate directors.

This is a defining point in the movement to restore the investor trust and confidence in the financial markets that are so critical to the nation's continued economic growth. Much progress has been made. But this intense lobbying effort threatens to derail the movement for reform short of its destination. To that end, your decision on the important matter of proxy access will determine whether investors' legitimate concerns will be ignored or whether investors will be able to ask the hard questions that might have prevented an Enron or a WorldCom collapse, and that in the future can protect the investments of millions of shareholders.

We strongly believe that the shareholders of companies – those who invest and put their savings at risk – must be able to hold corporate directors accountable. Voting rights for shareholders to nominate directors are fundamental. Yet today, shareholders have scant opportunity to address their concerns about inadequate representation on the boards of the companies in which they invest. And so, action to expand those voting rights could not be timelier. The corporate scandals of the last few years have uncovered, among other things, a widespread failure by boards of directors to provide effective oversight of the corporate managers who nominate those directors. The current avenues available to shareholders to nominate directors are long, clogged with obstacles, and prohibitively expensive.

The SEC has debated for decades, and for much of the past year in its consideration of a proposed rule on director nominations, how to hold companies and their corporate directors accountable. The time for continued debate is over; the time for decisive action is now. What is needed at this critical juncture is a rule that will give shareholders a genuine right to nominate directors to the boards of companies they own. As you have put it, "Today, nominees and directors emerge from a system that really excludes meaningful input from shareholders."

The SEC's proposed change in shareholder access to the proxy ballot only begins to address the basic principle of giving shareholders reasonable voting rights and an opportunity to nominate directors. We would prefer a rule without the sort of unnecessarily restrictive triggering requirements that even the largest investors would have difficulty satisfying, and which would make it difficult to effect change in a timely manner. Consider that under the Commission's current proposal, Enron or WorldCom shareholders would not have been able in the year following the collapse of those companies to remove company directors. We believe that a qualifying shareholder or group should have access to the proxy without waiting two years to bring their nominees to a vote.

But while we would prefer a stronger rule, it is essential the Commission now approve a rule at least as strong as the one originally proposed. Approving anything less would be seen, by investors and corporations alike, as a retreat from the principles of openness, honesty and transparency that have driven the corporate governance reform effort in the wake of the recent scandals—scandals that rocked the financial markets, damaged our economy, and harmed millions of American families.

We are not alone in urging you to stay the course. Thousands of investors have sent their comments to the Commission in an outpouring of support for shareholders' right to elect corporate directors. In their comments, you will hear the voices of people who understand the fundamental issues at stake. They need you to stand with them.

These commenters see a system in which shareholders are increasingly speaking their discontent with boards of directors, to no avail. In a sampling for the 2003 proxy season of 350 companies chosen from the S&P 500, the S&P 400 MidCap, and the S&P 600 SmallCap, shareholders cast "withhold votes" exceeding 20 percent at approximately 82 companies. In addition, shareholders cast "withhold votes" exceeding 35 percent at 11 companies, including: Federated Department Stores (48.66 percent), Starwood Hotels & Resorts (43.51 percent), Health Net, Inc. (40.71 percent), Abercrombie & Fitch Co. (38.88 percent), and Ryder Systems Inc. (37.29 percent). It is anticipated that 2004 will see a larger share of withhold votes than in 2003. Recently, for example, more than 45 percent of the Walt Disney Co.'s shareholders withheld their votes for the chairman and CEO because of their dissatisfaction with his performance. As you know, these percentages understate shareholder discontent, since brokers have been allowed to vote shareholder proxies for management if, in many circumstances, the shareholder has provided no instruction.

Yet under the current system, those votes are merely symbolic. As Abraham Keller, who identified himself only as "stockholder," asked in his comment to the Commission, "Why is it that the people who put up the money for these businesses have absolutely no say about who gets to run them?"

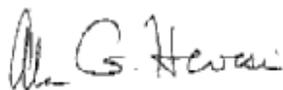
Those who commented see through the bogus fears about expanded shareholder rights being peddled by chief executives and corporate directors fighting to retain the status quo. "We would urge the Commission to focus its attention on experiences in other jurisdictions where provisions granting shareholders direct access to the nomination process have not resulted in the destabilisation of corporate boards," wrote a group of large institutional investors from abroad, who pointed out that the proposals before the Commission fall short of the standard of shareholder voting rights in many other parts of the world. Or as *The Economist* bluntly put it in a recent editorial, "When it comes to

shareholder democracy America has barely moved beyond the corporate equivalent of the rotten borough."

And the commenters see the pressure being put on you and the Commission by the Business Roundtable, the U.S. Chamber of Commerce and, according to press reports, high officials in the Bush administration. "I know how hard some corporations have lobbied the SEC to limit this rule, and the ability of investors to access it," wrote Tracey Coker Rembert of College Park, Md. "I sincerely hope that the SEC will stand by investors, large and small, that have poured their life savings into the markets. I'm tired of opening the pages of *The Wall Street Journal* every day and seeing more new evidence that the corporate corruption we've all witnessed is systemic in nature. We need to have greater checks and balances on company executives, and the Boards that kowtow to them, in order to turn this economy around. You'll never regain investor confidence until you've fixed the reason it was lost."

We, too, urge you to stand by shareholders, large and small, by approving stronger shareholder voting rules and making a difference for the openness and honesty of our markets and the strength of our free enterprise system.

Sincerely,



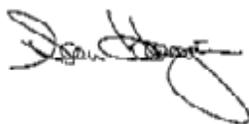
Alan G. Hevesi
Comptroller
State of New York



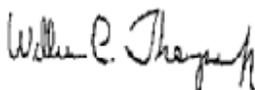
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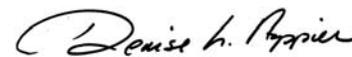
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“NO” OR “WITHHOLD” VOTES

2003 PROXY SEASON

A random sample of 350 S&P 500, S&P 400 MidCap and S&P 600 Small Cap companies reported the following “withhold votes” for the 2003 proxy season:

- Shareholders opposing company-nominated directors cast “withhold votes” of greater than 20% at approximately 82 companies (S&P 500, S&P 400 MidCap and S&P 600).
- In the S&P 500 sampling, shareholders opposing company-nominated directors cast “withhold votes” of greater than 20% at approximately 46 companies.
- In the total sampling, shareholders opposing company-nominated directors cast “withhold votes” of greater than 35% at eleven companies, including:
 - Federated Dept. Stores (48.66%)
 - Starwood Hotels & Resorts (43.51%)
 - Health Net, Inc. (40.71%)
 - Abercrombie & Fitch Co. (38.88%)
 - Ryder Systems Inc. (37.29%)

A Brief History of the SEC and Shareholder Access to the Proxy

The U.S. Securities and Exchange Commission (SEC or Commission) first addressed the issue of shareholder access to a company's proxy materials for the nomination of directors as early as 1942. At the request of the Commission, SEC staff prepared a proxy access proposal. The Commission solicited comments on staff's proposal, but declined without explanation to adopt rules to provide access.

Thirty-five years later, in 1977, the SEC revisited the shareholder proxy access issue during its broad review of shareholder communications, shareholder participation in the corporate electoral process, and corporate governance generally. However, the Commission ultimately took no further action on shareholder access to company proxy materials, aside from adopting a requirement that companies state whether they have a nominating committee and, if so, whether the nominating committee will consider shareholder recommendations.

The Commission briefly revisited the shareholder access issue again, in 1992, but again declined to adopt a rule that would give shareholders the right to include their own nominees for directors on a company's proxy materials.

Today, shareholders have three options to effect a change in the composition of a board of directors. They can run a slate on their own proxy materials; however, the cost of doing so can be substantial—the costs to print and mail the proxy materials alone can run to several hundred thousand dollars. Shareholders can also nominate a candidate at an annual meeting, but this is likely to be ineffective since most shareholders vote their proxy prior to the annual meeting. Shareholders can also recommend candidates to the company's nominating committee, but this method is ineffective since companies rarely nominate candidates recommended by shareholders.

Under the SEC's current proposal, the right to include a nominee for director on the company's proxy is conditioned on one of two "triggering events" occurring: at least one of the company's nominees received "withhold" votes in excess of 35%; or, a shareholder proposal submitted by a shareholder or group holding more than 1% of the company's shares for at least one year, received more than 50% of the votes cast on that proposal. Once triggered, the right to nominate would be granted to a shareholder or group owning more than 5% of a company's shares for at least two years.

While the SEC's proposed rule addresses the basic principle of giving shareholders an opportunity to nominate directors, its proposal contains restrictive triggering requirements that make it difficult to effect change in a timely manner.

California Treasurer Phil Angelides' Efforts To Protect Shareholders

- July 1, 2002** Treasurer Angelides joins New York Attorney General Eliot Spitzer, North Carolina Treasurer Richard Moore and then-New York Comptroller Carl McCall in adopting a set of Investment Protection Principles, which require investment banks and money managers to meet new standards of disclosure and eliminate their conflicts of interest or risk losing the right to do business with their respective states. At the Treasurer's urging, these principles are later also adopted by the California Public Employees' Retirement System (CalPERS) and the California State Teachers' Retirement System (CalSTRS).
- July 25, 2002** The Treasurer prohibits investments in, and business dealings with, expatriate U.S. corporations that relocate offshore – in name only – to avoid taxes and weaken legal protections for shareholders.
- August 12, 2002** Treasurer Angelides co-convenes an Investor Summit of public financial leaders from 14 states, responsible for the investment of more than \$1 trillion in assets, to develop an agenda for common action. At the meeting, the group vows to work collectively to expand the drive for corporate accountability.
- October 2, 2002** At the Treasurer's urging, CalSTRS votes to make its proxy policies and votes public on its web site; urges its money managers to disclose their proxy policies and votes; and urges the U.S. Securities and Exchange Commission (SEC) to adopt strong regulations requiring disclosure of proxy votes by mutual funds. Also at his urging, in November, CalPERS takes similar action with regard to its money managers and the SEC.
- October 24, 2002** The Treasurer's Office completes its initial review of investment bank compliance with the Investment Protection Principles: notifies 22 banks that their level of compliance is unacceptable, and sets a January 15, 2003 deadline for full compliance. One firm, HSBC, is notified of the Treasurer's intent to suspend it for noncompliance with the Principles, making it ineligible to do business with the State's \$50 billion investment pool. HSBC responds by agreeing to fully comply with the principles.
- November 18, 2002** CalPERS, at the request of Treasurer Angelides, launches a drive against the deceptive practice of corporate expatriation, voting to spearhead shareholder resolutions at McDermott International, Tyco International and Ingersoll-Rand, urging them to repatriate. In December, CalSTRS takes similar action with respect to Tyco and Ingersoll-Rand.
- December 5, 2002** The Treasurer initiates a national effort by major institutional investors to urge Standard & Poor's to remove offshore companies, including six corporate expatriates, from the S&P 500 Index, which S&P describes

as the “premier index for large cap U.S. stocks.” Nine state finance officials and leading national labor officials join this effort.

March 6, 2003

Angelides proposes the creation of a new California Office of Pension Protection and Market Reform – a joint operation of CalPERS and CalSTRS, the nation’s first and third largest public pension funds. The office would strengthen California’s clout in advancing an agenda of corporate reform. It also would protect state pension fund members and their assets by seeking redress and restitution for harm done and losses caused by corporate malfeasance; deterring future misconduct; and pursuing the corporate and financial market reforms necessary to restore integrity to the marketplace.

March 6, 2003

Treasurer Angelides, public pension funds, other state and local finance officials, and labor unions join together to score significant victories in the fight against corporate expatriation. As a result of the “Come Home to America Campaign,” more than 26 percent of Tyco International Shareholders vote, on March 6, 2003, to leave Bermuda and bring Tyco back to the United States; on March 25, 2003, McDermott International agrees to work toward reincorporating from Panama back to the U.S.; and on March 30, 2003, a stunning 41.4 percent of Ingersoll-Rand shareholders vote to reincorporate in the U.S.

March 26, 2003

Treasurer Angelides sponsors legislation to ban state contracts with expatriate corporations and to close state tax loopholes that benefit those companies. Senate Bill 640, introduced by state Senator John Burton, is later enacted into law, prohibiting State agencies from contracting with publicly held U.S. corporations that have expatriated. Another measure, Senate Bill 1067, authored by Senator Jackie Speier, would close tax loopholes that allow expatriates to annually avoid an estimated \$10 million in California taxes.

April 17, 2003

Treasurer Angelides proposes new standards for equity compensation plans – including stock options – for the 1,000 largest companies in which the State’s two large public pension funds invest their money. Under Angelides’ proposal, CalPERS and CalSTRS would vote to support equity compensation plans if the plans award 5 percent or less of the total compensation to the top five executives of the company. In addition, the plans must provide vesting schedules of four years or longer. On June 16, 2003, these standards are adopted at CalPERS. On July 9, 2003, CalSTRS adopts the “5 percent” standard and agrees to encourage minimum vesting periods of five years.

May 8, 2003

Acting in the wake of the landmark settlement of enforcement actions against 10 large investment banks, Treasurer Angelides imposes tough new requirements, called Investment Protection Standards, on all investment banks that want to do business with the State. The action makes California the first state in the nation to apply and expand the tough new reforms of the Wall Street settlement to each of the 69 firms eligible to handle issuance of State bonds and the 57 broker/dealer firms that do business with the State’s investment fund and that

provide both research and investment banking services to the marketplace. These tougher new standards replace the Investment Protection Principles adopted in July 2002. CalSTRS adopts the new standards on July 9, 2003, and CalPERS adopts them on August 18, 2003. **(By March 2004, all 44 firms determined to be subject to the Standards are found to be in compliance.)**

June 30, 2003

Treasurer Angelides, joined by the chief investment officers of six other states, calls on SEC Chairman William Donaldson to move quickly to complete reforms on issues crucial to the protection of shareholders. Angelides and the others release a “progress report” that gives the SEC under Donaldson grades of “incomplete” on three crucial reforms: democratizing “management-controlled” corporate elections; halting brokers’ ability to stuff corporate ballots for management; and stopping corporations from co-opting accounting firms with lucrative tax consulting contracts.

September 16, 2003

Treasurer Angelides becomes the nation’s first publicly elected official to call for the resignation of NYSE Chairman and CEO Dick Grasso, following revelations regarding Grasso’s excessive pay package and the process by which it was negotiated. The Treasurer – joined by Sean Harrigan, President of the CalPERS Board of Administration, and CalSTRS CEO Jack Ehnes – say Grasso’s \$188 million compensation package set back critical efforts to restore the public’s faith in our financial system, and threatened the Exchange’s integrity and ability to provide critical leadership in the area of corporate reform. Their announcement immediately spurs other elected officials throughout the country to join the call later that same day. Grasso resigns as chairman and CEO of the Exchange the next day.

September 24, 2003

Treasurer Angelides leads a national delegation of state treasurers, chief investment officers and public pension fund officials to New York, where they meet with members of the NYSE Board of Directors to demand: fundamental governance reforms at the Exchange; a reduction in Grasso’s outsized compensation; and a thorough, independent investigation into the NYSE’s operations and governance, including the events which led to Grasso’s pay package. The coalition of state treasurers, comptrollers, and others succeed in prompting the NYSE to conduct an independent investigation and to undertake significant governance reforms, including a separation of the NYSE’s chairman and CEO positions.

October 2, 2003

Treasurer Angelides and 10 other state and local pension fund officials again call on the SEC to ensure proxy access to shareholders. They argue that the SEC’s proposed rules for proxy access contain excessively restrictive “triggers” that would effectively block shareholders from using proxy access to nominate director candidates and challenge ineffective boards.

- October 14, 2003** Treasurer Angelides and a coalition of state treasurers and public pension fund leaders meet with NYSE interim chairman John Reed, who confirms that he has launched an independent probe of the Exchange, as requested by Treasurer Angelides. (The results of that NYSE investigation have since prompted the SEC and New York State Attorney General Eliot Spitzer to launch separate probes of the Grasso pay matter.)
- November 20, 2003** Treasurer Angelides and New York State Comptroller Alan Hevesi, joined by nine other state chief investment officers and pension fund chiefs, urge the SEC to strengthen the reform plan adopted by the NYSE, to provide greater assurances of a truly independent board over time, and create a genuine firewall between the regulatory and business functions of the Exchange.
- December 16, 2003** Treasurer Angelides and other CalPERS trustees announce that CalPERS has filed a class action lawsuit against the NYSE and seven specialist trading firms, alleging that the Exchange and the firms “pursued a fraudulent scheme” to bilk investors out of at least \$150 million by shortchanging them in trillions of dollars worth of trades over a five-year period.
- January 15, 2004** Treasurer Angelides, New York State Comptroller Alan Hevesi, and North Carolina Treasurer Richard Moore – joined by New York Attorney General Eliot Spitzer – announce a set of Mutual Fund Protection Principles that the chief investment officers say should be a standard for the whole industry. The proposed principles call for a wide range of reforms to shareholder disclosure and reporting; mutual fund board structure; management compensation reporting; mutual fund disclosure of security holdings, trading costs and an accounting of “soft dollar” expenditures for all mutual funds hired by the states and public pension funds to handle a wide variety of pension programs. In California, the principles are adopted in March and April by CalPERS, CalSTRS, and the ScholarShare Investment Board, which administers the State’s \$1 billion college savings plan.
- May 27, 2004** Treasurer Angelides, joined by other state chief investment offers and pension fund chiefs, sends letters to SEC Chairman William Donaldson, calling on him to embrace meaningful shareholder voting rights for the directors of publicly traded companies.